Texas Department of Insurance
Division of Workers' Compensation
Medical Fee Dispute Resolution, MS-48
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645
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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

SURGERY SPECIALTY HOSPITALS OF AMERICA SE
4301 VISTA RD
PASADENA TX 77504-2117

Respondent Name
LIBERTY MUTUAL FIRE INSURANCE COMPANY

Carrier's Austin Representative Box
Box Number 1

MFDR Tracking Number
M4-10-1264-01

MFDR Date Received
October 23, 2009

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "On or about December 08, 2008, Provider submitted a bill requesting "Separate Reimbursement to Hospital for Implantables Requested." We are requesting separate reimbursement for implants. . . . On February 04, 2009, Provider sent Carrier a Request for Reconsideration noting that Carrier failed to reimburse Provider pursuant to the appropriate sections of the fee guideline applicable when provider did request separate reimbursement for implantables . . . It is unclear from the Explanation of Benefits what methodology Carrier used to calculate reimbursement, but because Provider did not request that the implantables be paid separately, Carrier should have reimbursed Provider pursuant to section 134.403(f)(1)(A). Carrier has severely under-reimbursed Provider by either applying the inappropriate reimbursement methodology or inappropriately calculating reimbursement under the applicable rule."

Amount in Dispute: $30,200.57

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The implant devices for this date of service were billed by Progressive Pain Physicians and paid a the appropriate rate per the TWCC fee Schedule. . . . Because the implant provider already billed and was paid for the implantables, the Medicare provider was appropriately reimbursed at 130 % of the APC rate."

Response Submitted by: Liberty Mutual, 2875 Browns Bridge Road, Gainesville, Georgia 30504

SUMMARY OF FINDINGS

Date(s) of Service	Disputed Services	Amount In Dispute	Amount Due
November 11, 2008	Outpatient Hospital Services	$30,200.57	$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.403, titled *Hospital Facility Fee Guideline – Outpatient*, sets out the reimbursement guidelines for facility services provided in an outpatient acute care hospital.
3. 28 Texas Administrative Code §134.203, titled *Medical Fee Guideline for Professional Services*, sets out the reimbursement guidelines for professional medical services.
4. The services in dispute were reduced/denied by the respondent with the following reason codes:
   - X122 – THE VALUE OF THE TOTAL PROCEDURE WAS PAID TO ANOTHER PROVIDER. (X122)
   - Z710 – THE CHARGE FOR THIS PROCEDURE EXCEEDS THE FEE SCHEDULE ALLOWANCE. (Z710)
   - Z652 – RECOMMENDATION OF PAYMENT HAS BEEN BASED ON A PROCEDURE CODE WHICH BEST DESCRIBES SERVICES RENDERED. (Z652)
   - U634 – PROCEDURE CODE NOT SEPARATELY PAYABLE UNDER MEDICARE AND OR FEE SCHEDULE GUIDELINES (U634)
   - U034 – A CHARGE WAS MADE FOR A VISIT ON THE SAME DAY AS A SURGICAL PROCEDURE, OR WITHIN THE 90 DAY FOLLOW UP PEROD OF A PREVIOUSLY PERFORMED SURGERY. (U034)
   - B291 – THIS IS A BUNDLED OR NON COVERED PROCEDURE BASED ON MEDICARE GUIDELINES; NO SEPARATE PAYMENT ALLOWED. (B291)

Issues

1. Did the insurance carrier support its reasons for denying the disputed implantable items?
2. Are the disputed services subject to a contractual agreement between the parties to this dispute?
3. What is the applicable rule for determining reimbursement for the disputed services?
4. What is the recommended payment amount for the services in dispute?
5. Is the requestor entitled to reimbursement?

Findings

1. The insurance carrier denied disputed implantable items with reason code X122 – "THE VALUE OF THE TOTAL PROCEDURE WAS PAID TO ANOTHER PROVIDER." Per 28 Texas Administrative Code §133.403(g) "Implantables, when billed separately by the facility or a surgical implant provider in accordance with subsection (f)(1)(B) of this section, shall be reimbursed at the lesser of the manufacturer's invoice amount or the net amount (exclusive of rebates and discounts) plus 10 percent or $1,000 per billed item add-on, whichever is less, but not to exceed $2,000 in add-on's per admission. " The respondent provided documentation to support that Progressive Pain Physicians submitted a separate bill as the surgical implant provider for the disputed implantable items and was separately reimbursed for the implantable items in dispute. The Division therefore concludes that the denial reason is supported. Reimbursement is not recommended.
2. Review of the submitted documentation finds no information to support that the disputed services are subject to a contractual agreement between the parties to this dispute.
3. This dispute relates to facility services performed in an outpatient hospital setting with reimbursement subject to the provisions of 28 Texas Administrative Code §134.403, which requires that the reimbursement calculation used for establishing the maximum allowable reimbursement (MAR) shall be the Medicare facility specific amount, including outlier payment amounts, determined by applying the most recently adopted and effective Medicare Outpatient Prospective Payment System (OPPS) reimbursement formula and factors as published annually in the Federal Register with the application of minimal modifications as set forth in the rule. Per §134.403(f)(1), the sum of the Medicare facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by 200 percent, unless a facility or surgical implant provider requests separate reimbursement of implantables. Although the requestor's position statement asserts both that "We are requesting separate reimbursement for implants," and "Provider did not request that the implantables be paid separately," review of the submitted documentation finds that separate reimbursement for implantables was requested. Therefore, per §134.403(f)(1)(B), the facility specific reimbursement amount including outlier payments is multiplied by 130 percent. Per §134.403(f)(2), when calculating outlier payment amounts, the facility's total billed charges shall be reduced by the facility's billed charges for any item reimbursed separately under §134.403(g). The facility's total billed charges for the separately reimbursed implantable items are $126,600.00. Accordingly, the facility's total billed charges shall be reduced by this amount for the purpose of calculating any outlier payments below.

4. Under the Medicare Outpatient Prospective Payment System (OPPS), each billed service is assigned an Ambulatory Payment Classification (APC) based on the procedure code used, the supporting documentation and the other services that appear on the bill. A payment rate is established for each APC. Depending on the services provided, hospitals may be paid for more than one APC per encounter. Payment for ancillary and supportive items and services, including services that are billed without procedure codes, is packaged into payment for the primary service. A full list of APCs is published annually in the OPPS final rules which are publicly available through the Centers for Medicare and Medicaid Services (CMS) website. Reimbursement for the disputed services is calculated as follows:

   - Procedure code J3490 has a status indicator of N, which denotes packaged items and services with no separate APC payment; payment is packaged into payment for other services, including outliers.
   - Per Medicare policy, procedure code A4649 represents an item or service for which payment is bundled into payment for other services billed on the same date of service. Separate payment is not recommended.
   - Procedure code C1778 has a status indicator of N, which denotes packaged items and services with no separate APC payment; payment is packaged into payment for other services, including outliers.
   - Procedure code 82948 has a status indicator of A, which denotes services paid under a fee schedule or payment system other than OPPS. Per 28 Texas Administrative Code §134.403(h), for outpatient services for which Medicare reimburses using fee schedules other than OPPS, reimbursement is made using the applicable Division fee guideline in effect for that service on the date the service was provided. Facility payment for the technical component of this service is calculated according to the Medical Fee Guideline for Professional Services, §134.203(e)(1). The fee listed for this code in the Medicare Clinical Fee Schedule is $4.43. This amount multiplied by 2 units is $8.86. 125% of this amount is $11.07. The recommended payment is $11.07.
   - Procedure code 77002 has a status indicator of N, which denotes packaged items and services with no separate APC payment; payment is packaged into payment for other services, including outliers.
   - Procedure code 63685 has a status indicator of S, which denotes a significant procedure not subject to multiple procedure discounting, paid under OPPS with separate APC payment. This service is classified under APC 0222, which, per OPPS Addendum A, has a payment rate of $15,337.45. This amount multiplied by 60% yields an unadjusted labor-related amount of $9,202.47. This amount multiplied by the annual wage index for this facility of 0.989 yields an adjusted labor-related amount of $9,101.24. The non-labor related portion is 40% of the APC rate or $6,134.98. The sum of the labor and non-labor related amounts is $15,236.22. If the total cost for a service exceeds 1.75 times the OPPS payment and also exceeds the annual fixed-dollar threshold of $1,575, the outlier payment is 50% of the amount by which the cost exceeds 1.75 times the OPPS payment. Per the OPPS Facility-Specific Impacts file, CMS lists the cost-to-charge ratio for this provider as 0.205. This ratio multiplied by the billed charge of $1,523.75 yields a cost of $312.37. The total cost of all packaged items is allocated proportionately across all separately paid OPPS services based on the percentage of the total APC payment. The APC payment for this service of $15,236.22 divided by the sum of all APC payments is 65.10%. The sum of all packaged costs is $6,055.54. The allocated portion of packaged costs is $3,942.02. This amount added to the service cost yields a total cost of $4,254.39. The cost of this service exceeds the annual fixed-dollar threshold of $1,575. The amount by which the cost exceeds 1.75 times the OPPS payment is $0.00. The total APC payment for this service, including outliers, is $15,236.22. This amount multiplied by 130% yields a MAR of $19,807.09.
   - Procedure code 63650 has a status indicator of S, which denotes a significant procedure not subject to multiple procedure discounting, paid under OPPS with separate APC payment. This service is classified under APC 0040, which, per OPPS Addendum A, has a payment rate of $4,062.82. This amount multiplied by 60% yields an unadjusted labor-related amount of $2,437.69. This amount multiplied by the annual wage index for this facility of 0.989 yields an adjusted labor-related amount of $2,410.88. The non-labor related portion is 40% of the APC rate or $1,625.13. The sum of the labor and non-labor related amounts is $4,036.01. The cost of this service does not exceed the annual fixed-dollar threshold of $1,575. The outlier payment amount is $0. The total APC payment for this service, including outliers, is $4,036.01. This amount multiplied by 130% yields a MAR of $5,246.81.
   - Procedure code 63650-59 has a status indicator of S, which denotes a significant procedure not subject to multiple procedure discounting, paid under OPPS with separate APC payment. This service is classified under APC 0040, which, per OPPS Addendum A, has a payment rate of $4,062.82. This amount multiplied by 60% yields an unadjusted labor-related amount of $2,437.69. This amount multiplied by the annual wage index for this facility of 0.989 yields an adjusted labor-related amount of $2,410.88. The non-labor related portion is 40% of the APC rate or $1,625.13. The sum of the labor and non-labor related amounts is $4,036.01. The cost of this service does not exceed the annual fixed-dollar threshold of $1,575. The outlier payment amount is $0. The total APC payment for this service, including outliers, is $4,036.01. This amount multiplied by 130% yields a MAR of $5,246.81.

- Procedure code 95972 has a status indicator of S, which denotes a significant procedure not subject to multiple procedure discounting, paid under OPPS with separate APC payment. This service is classified under APC 0663, which, per OPPS Addendum A, has a payment rate of $97.53. This amount multiplied by 60% yields an unadjusted labor-related amount of $58.52. This amount multiplied by the annual wage index for this facility of 0.989 yields an adjusted labor-related amount of $57.88. The non-labor related portion is 40% of the APC rate or $39.01. The sum of the labor and non-labor related amounts is $96.89. The cost of this service does not exceed the annual fixed-dollar threshold of $1,575. The outlier payment amount is $0. The total APC payment for this service, including outliers, is $96.89. This amount multiplied by 130% yields a MAR of $125.96.
- Procedure code 99144 has a status indicator of N, which denotes packaged items and services with no separate APC payment; payment is packaged into payment for other services, including outliers.
- Per Medicare policy, procedure code 99205 is unbundled. This service is a component procedure of procedure code 99144 performed on the same date of service. Payment for this service is included in the payment for the primary procedure. Separate payment is not recommended.
- Procedure code C1820 has a status indicator of N, which denotes packaged items and services with no separate APC payment; payment is packaged into payment for other services, including outliers.

5. The total recommended payment for the services in dispute is $30,437.74. This amount less the amount previously paid by the insurance carrier of $30,440.77 leaves an amount due to the requestor of $0.00.

Conclusion

For the reasons stated above, the Division finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is $0.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to $0.00 reimbursement for the disputed services.

Authorized Signature

	Grayson Richardson	October 1, 2012
Signature	Medical Fee Dispute Resolution Officer	Date
Signature	Medical Fee Dispute Resolution Manager	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party**.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.